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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

GARG, YOGESH C

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/867,174

Applicant(s)

SCHEER, ROBERT H.

Examiner

Yogesh C. Garg

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 11-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment received on 7/8/2005 is acknowledged and entered. Claim 11 is amended. Currently amended claims 11-20 are pending for examination.

Response to Arguments

- 2.1. In view of the current amendment to independent claim 1, rejection of claims 11-20 under 35 USC 101 is withdrawn.
- 2.2. Applicant's arguments filed on July 8, 2005 with respect to currently amended claims 11-20 have been considered but are moot in view of the new ground(s) of rejection necessitated due to amendments to the claims.

This is a Final Office Action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 3.1. Claims 11-12, 14-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Altendahl in view of Landvater.

Regarding claim 11, Altendahl teaches a computer readable media having instructions, executable by a computer, for use in selecting a fulfillment plan for moving an item within a supply chain (see at least Fig.1 and page col.3, lines 15-31, where, "shipping manager 10" computer program when executing under Windows 95 operating system and executed on a server"), the instructions performing steps comprising:

receiving an order for an item (see at least col.3, lines 32-46 which discloses that a seller's employee receiving an order for business systems-computers);

in response to receipt of the order for the item constructing a plurality of alternative fulfillment plans for moving the item from a sourcing point to one or more geographic locations within the supply chain (see at least col.4, line 17-col.5, line 35 which discloses that in response to receiving an order and entering the order into the shipping manager's system [10], the shipping manager 10 first generates alternative fulfillment plans for moving the item from its manufacturing/assembly point to the destination point by generating alternative choices of routes, such as Alpha, Bravo and Delta);

evaluating each of the constructed plurality of alternative fulfillment plans against a predetermined criteria and selecting for implementation one of the constructed plurality of alternative fulfillment plan that most closely meets the predetermined criteria, the selected one of the plurality of alternative fulfillment plan being used to position the item at a geographic location within the supply chain thereby making the item available for use in meeting the order (see at least col.5, line 50-col.6, line 25 which discloses that the alternative generated routing choices are subjected to evaluation on the basis of

business rules [predetermined criteria] such as " if a shipment is going to Chicago, then use Alpha Freight Service or If expected delivery is Sunday, then use Bravo Freight Service....., see col.4 lines 17-61).

Altendahl discloses constructing a fulfillment plans for moving items from a sourcing point to a geographic location depending upon the destination address and identifier and selecting one of the plurality of fulfillment plans to position an item at a geographic location depending upon the destination address and identifier, as analyzed above and see col.2, lines 1-52 and col.4, line 17-col.5, line 35. Altendahl does not explicitly disclose that the item is to be moved to a plurality of geographic locations. However, in the same field of endeavor, that is a computer –implemented method and system for replenishing inventories at a plurality of retail stores in a retail store supply chain from a plurality of suppliers teaches the requirement for moving an item to a plurality of retail stores that is to a plurality of geographical locations corresponding to the plurality of retail stores in the retail store supply chain (see at least col.1, lines 10-20, col.6, lines 45-61, "Referring to FIGS. 1 and 2, the present invention is a time-phased planning system 20 for use in a **retail store supply chain 22 having one or more retail stores 23** (the first level in the supply chain), **one or more suppliers 24** (the second level in the supply chain) and **one or more manufacturers 25** (the third level in the supply chain). Retail store 23 can be a "bricks and mortar" store of any size or type, e.g., a small general store or a large "warehouse" store of a national chain. In addition, retail store 23 may be a so-called "clicks and bricks" store in which products are purchased on-line from a traditional store. Further, retail store 23 may be a pure e-commerce organization..... ". Note:

Landvater explicitly teaches organizing replenishment of inventories to a plurality of retail stores in a supply chain. In view of Landvater, it would have been obvious to one

of an ordinary skilled in the art at the time of the applicant's invention to have modified Altendahl to construct a plurality of alternative fulfillment plans for moving items from a sourcing point to the plurality of locations of the ordering entity, that is the business system-computers and to position the item at one or more of those geographical locations because one of an ordinary skilled in the art would know that any business entity can have more than one locations distributed at different geographical locations, as exhibited for a retail supply chain in Landvater

Regarding claim 12, Altendahl teaches further using a customer specified level of service when constructing the plurality of alternative fulfillment plans (see at least col.4 lines 17-61, wherein the a customer specifies the criteria such as " if a shipment is going to Chicago, then use Alpha Freight Service or If expected delivery is Sunday, then use Bravo Freight Service....., and " the business system is to be shipped so as to arrive no later than two weeks from the date of the order.....and other wise is to be shipped as inexpensively as possible.... ".

Regarding claim 14, Altendahl teaches further using a customer specified point of delivery when constructing the plurality of alternative fulfillment plans (see at least col.4 lines 17-32, wherein the a customer specifies the criteria such as " if a shipment is going to Chicago, then use Alpha Freight Service..". The specified point of delivery is Chicago.).

Regarding claim 15, Altendahl teaches further comprising the step of using a customer specified delivery date when constructing the plurality of alternative fulfillment plans (see at least col.4 lines 56-61, wherein the a customer specifies the criteria such as “ the business system is to be shipped so as to arrive no later than two weeks from the date of the order.....”).

Regarding claim 16, Altendahl teaches further comprising the step of using various combinations of sourcing points within the supply chain when constructing the plurality of alternative fulfillment plans (see at least col.7, line 50-col.8, line 32 , “the planning system 11 invokes a consolidator [module] 25..... In attempting to consolidate shipments, the consolidator module 25 searches the batch shipments for all shipments having matching required properties. Usually these will include the shipper, consignee.....”. Note: Considering the shippers and consignees in determining consolidating the shipment corresponds to using various combinations of sourcing points.).

Regarding claim 17, Altendahl teaches further comprising the step of using customer specified consolidation requirements when constructing the plurality of alternative fulfillment plans (see at least col.7, line 50-col.8, line 32 , “the planning system 11 invokes a consolidator [module] 25.....”).

Regarding claim 18, Altendahl teaches further comprising the step of using

activity costs when constructing the plurality of alternative fulfillment plans (see at least col.4 lines 56-61, wherein the a customer specifies the criteria such as the business system is to be shipped so as to arrive no later than two weeks from the date of the order.....**and other wise is to be shipped as inexpensively as possible.....**”..

Note: Considering an inexpensive shipment as far as possible corresponds to using activity cost in constructing alternative fulfillment plans.).

Regarding claim 20, Altendahl teaches further comprising the step of using a customer specified price quote when evaluating the constructed plurality of alternative fulfillment plans against a predetermined criteria (see at least col.3, lines 32-54 which discloses that all the terms of order including charge terms, payment terms, etc. are considered while inputting the order terms into shipping manager 10 program and then generating alternative fulfillment plans for selecting the routing paths and the ultimately the optimal selection based upon a predetermined criteria, that is the order terms including charge terms, payment terms, etc. . Note: using the order terms including charge terms, payment terms, etc. satisfies the claimed limitation.).

Regarding claim 19, Altendahl does not disclose the step of using inventory age when constructing the plurality of alternative fulfillment plans. However, Landvater in the same field of a retailers stores supply chain, teaches the step of using inventory age when constructing the plurality of alternative fulfillment plans (see at least col.18, line 25-col.19, line 36 which discloses to check for the availability of excess inventory so that if it is there then there is no need for planned replenishment shipment for the

company). In view of Landvater, it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Altendahl to incorporate the feature of using inventory age when constructing the plurality of alternative fulfillment plans because, it will help the company who received the order for business systems to use the excess inventory to meet the demands of the order without having to plan for replenishment in future.).

3.2 Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Altendahl in view of Landvater and further in view of Dietrich.

Regarding claim 13, Altendahl in view of Landvater discloses a computer readable medium having instructions to construct alternative fulfillment plans in response to an order and then evaluate and select a plan to meet the predetermined criteria, as analyzed above in claim 11. Altendahl in view of Landvater does not disclose the use of branch and bound technique to determine candidate sourcing points for the item when constructing the plurality of alternative fulfillment plans. However, Dietrich teaches the use of branch and bound technique in the same field of endeavor, that is computerized production planning, logistics, scheduling, distribution and resource allocation (see at least abstract). In view of Dietrich, it would have been obvious to one of an ordinary skill in the art at the time of the applicant's invention to have modified Altendahl in view of Landvater to incorporate the feature of using branch and bound technique to determine candidate sourcing points for the item when constructing the plurality of alternative fulfillment plans because, it is a proven technique to provide

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optimal resource allocation producing the maximum benefit (see the last two sentences of the abstract).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yogesh C. Garg whose telephone number is 571-272-6756. The examiner can normally be reached on M-F(8:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yogesh C Garg
Primary Examiner
Art Unit 3625

YCG
August 8, 2005